

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DAVID WHITT,)
)
Plaintiff,)
)
v.) Case No. 4:18-CV-1294
)
CITY OF ST. LOUIS, *et al.*)
)
Defendants.)

DECLARATION OF W. PATRICK MOBLEY

1. I am over the age of 18. I have personal knowledge of the facts set forth in this declaration and could testify competently to those facts.

2. My name is W. Patrick Mobley, and I am an attorney with the Roderick & Solange MacArthur Justice Center. My Missouri Bar number is 63636MO. I am one of the attorneys of record for the plaintiff in the above-captioned case, David Whitt. In that role, I was responsible for drafting and filing Mr. Whitt's response in opposition to the Defendants' motion for summary judgment.

3. On March 15, 2021, I finalized for filing a memorandum in opposition to Defendants' motion for summary judgment, a response to Defendants' statement of uncontested material facts, and a motion for leave to exceed the E.D.Mo. L.R. 4.01(D) page limitation. When that motion for leave was granted, I filed Plaintiff's memorandum in opposition to Defendants' motion for summary judgment. Until July 6, 2021, I believed that I also filed Plaintiff's response to Defendants' statement of uncontested material facts at that time.

4. Defendants filed a reply on March 29, 2021. Because the rules do not provide for a surreply, I did not read the Defendants' reply brief to realize that it flagged my mistake.

5. I first learned that I had not filed the response to Defendants' statement of uncontested material facts on July 6, 2021, when my supervisor Amy Breihan brought it to my attention after reading the Memorandum and Order granting Defendants' motion for summary judgment (Doc. 105).

6. I am out of the office and out of town on previously scheduled travel this week of July 5, 2021. Amy Breihan contacted me immediately after receiving the Court's order on July 6, 2021.

7. I am signing this declaration in conjunction with a Rule 60(b) Motion for Relief from Order and Judgment. The response to Defendants' statement of uncontested material facts attached as Exhibit A to that Motion is the same version of that same document that I had finalized and prepared to file on March 15, 2021.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: ____ 7/6/2021 _____

By: ____/s/ *W. Patrick Mobley* _____

W. Patrick Mobley